

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

CLAYTON DOBBINS,

Plaintiff,

v.

KROGER COMPANY,

Defendant.

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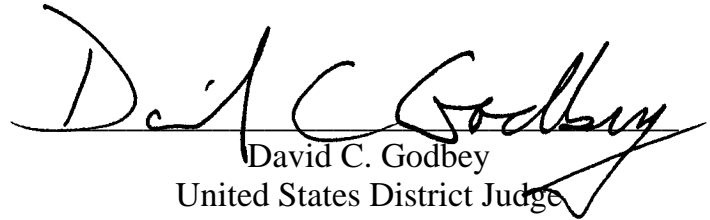
Civil Action No. 3:08-CV-1206-N

**ORDER ACCEPTING FINDINGS AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE**

United States Magistrate Judge William F. Sanderson, Jr., made findings, conclusions and a recommendation in this case. Neither party filed objections, so the Court reviewed the proposed findings, conclusions and recommendation for plain error. Finding none, the Court accepts the findings, conclusions and recommendation. The Court denies Plaintiff's motion for default judgment [30], and grants Plaintiff's motion for leave to file second amended complaint [40]. Although Plaintiff did not file a proposed second amended complaint with his motion for leave, the Court understands the document indicated as Exhibit E in the appendix to Defendant's response to the motion for leave to be the proposed complaint.¹ The Court denies Defendant's motion for summary judgment [22] but grants Defendant leave to file a subsequent motion for summary judgment.

¹The Court notes that Plaintiff persisted in including the wrong defendant in his proposed second amended complaint. The Court now strikes "Kroger Company" as a named defendant in the proposed amended complaint, because Kroger Texas, L.P. is the proper defendant.

SIGNED August 31, 2009.



David C. Godbey
United States District Judge